

Weekly Muster

Week of Muster: November 19, 2007

Topic: Delegation of Authority for Enforcement Actions

Reference Materials: ICE Detention and Removal Manual Section 14.8,
Inspector's Field Manual Section 17.11, 8 CFR § 241.8

Headquarters POC: (b) (6), (b) (7)(C)

Office: Admissibility and Passenger Programs

Authority to issue the following forms concerning any removable alien is hereby delegated to second-line supervisory CBP Officers:

- Notice to Appear, Form I-862;
- Warrant of Arrest, Form I-200;
- Order of Release on Recognizance, Form I-220A; and
- Decision to Reinstate Prior Order, Form I-871.

When an alien has demonstrated his or her intent to depart the United States, it serves no purpose to issue an NTA, because the alien is already executing the ultimate objective, which is removal from the United States. In such cases concerning non-arriving aliens, voluntary return should be considered as an exercise of discretion analogous to withdrawal of application for admission.

Where feasible, Voluntary Return cases should be documented in the ENFORCE VR module, consistent with existing procedures in the ICE Detention and Removal Manual Section 14.8. In circumstances where CBP Officers encounter outbound illegal aliens and there is insufficient time before the departure flight to collect biometrics, the officers may use the biographic data alone to create a record and lookout.

On February 6, 2007, the United States Court of Appeals for the Ninth Circuit reversed their previous decision in *Morales-Izquierdo v. Gonzales*, 486 F.3d 484. This decision affirmed the authority of immigration officers to issue Form I-871, Decision to Reinstate Prior Order.

Questions on the policy outlined here may be directed to (b) (6), (b) (7)(C) Program Manager, Admissibility and Passenger Programs, at (202) (b) (6), (b) (7)(C)

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